

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19244 & 19245
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On November 17, 2005, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued Notices of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable years 1998 through 2003 in the total amount of \$542,279 for each individual.

On January 11, 2006, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that indicated the taxpayers were required to file Idaho individual income tax returns for the taxable years 1998 through 2001. The Bureau researched the Tax Commission's records and found that the taxpayers did not file income tax returns for those years. The Bureau sent the taxpayers a letter asking about their requirement to file Idaho income tax returns. The taxpayers responded that they intended to file the required returns and bring their Idaho filings current. The Bureau allowed the taxpayers the time they requested for submitting their returns. However, the taxpayers failed to meet that timeframe. The Bureau allowed significantly more time, but the taxpayers still failed to provide the needed returns.

[Redacted]. The Bureau prepared married filing separate returns for the taxpayers and sent each of them a Notice of Deficiency Determination. From the initial correspondence with the taxpayers to the time the Bureau made its determination, the Bureau determined the taxpayers were required to file additional income tax returns for 2002 and 2003. The Bureau included these two years in the Notices of Deficiency Determination. The taxpayers protested the Bureau's determination stating again that they intended to provide income tax returns that would bring them current with Idaho. The Bureau, having allowed the taxpayers ample time to submit their Idaho returns, referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter setting forth the methods available for redetermining a Notice of Deficiency Determination. The taxpayers asked for additional time to get their returns prepared. After several months of contacting the taxpayers and extending the time for submitting their returns, the taxpayers did submit returns for 1998 through 2003.

The Tax Commission reviewed the taxpayers' returns and found they were a better representation of the taxpayers' taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

Three of the taxpayers' six returns resulted in refunds to the taxpayers. The taxpayers' 2001, 2002, and 2003 returns yielded refunds because of Idaho Code section 63-3024A, the so called grocery credit. However, Idaho Code section 63-3024A sets a statute of limitations for receiving a refund of this credit. It states that an application for refund of the credit made available by this section must be filed with the Tax Commission within three years of the due date of the return, including extensions. The 2001 and 2002 returns were submitted in February 2007, and the 2003 return was submitted in May 2007. The due dates for these returns were

April 15, 2002; April 15, 2003; and April 15, 2004, respectively. Clearly the 2001 and 2002 returns were provided well past the statute of limitations. As for the 2003 return, the taxpayers missed the statute of limitations by three weeks. Therefore, the taxpayers are not entitled to a refund for those years.

The taxpayers' 1998, 1999, and 2000 returns resulted in the taxpayers owing tax to Idaho. The taxpayers paid the tax when the returns were submitted; however, since the returns were not filed by their due dates, the taxpayers are subject to penalty and interest on the delinquent filing. See Idaho Code sections 63-3045 and 63-3046. Therefore, the Tax Commission adds penalty and interest to the taxpayers' 1998, 1999, and 2000 returns.

WHEREFORE, the Notices of Deficiency Determination dated November 17, 2005, are hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, are APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998			\$ 10	\$ 10	\$ 6	\$ 26
1999			358	90	164	612
2000			161	40	60	261
2001	\$ 50	0				0
2002	50	0				0
2003	50	0				0
TOTAL						\$899
LESS REMITTANCE						<u>(529)</u>
BALANCE DUE						<u>\$370</u>

Interest is computed to August 15, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]